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Letter dated 30 July 2012 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council

Further to my letter dated 27 July 2012, through which I conveyed to you the proposal of the Government of the Sudan for the resolution of pending security issues with the Government of South Sudan, I have further the honour to enclose herewith the position paper of the Government of the Sudan pertaining to oil and related payments dated 27 July 2012 (see annex), which was submitted to Mr. Thabo Mbeki, Chair of the African Union High-level Implementation Panel.

You are kindly requested to circulate the present letter and its annex as a document of the Security Council.

(*Signed*) Daffa-Alla Elhag Ali **Osman**
Permanent Representative

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Annex to the letter dated 30 July 2012 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council

Oil and related payments

Position of the Government of Sudan
27 July 2012

Guiding principles

- The two sides recognize and underscore that security at their common borders is a priority in establishing soft borders, facilitating flow of petroleum from fields in their respective States, facilitating trade and easing movement of cross-border nomadic communities.
- The people of South Sudan voted for secession in the referendum held in January 2011 and, in accordance with the Comprehensive Peace Agreement entered into between the parties, the Government of Sudan accepts that on the basis of the referendum, South Sudan seceded and established the sovereign Republic of South Sudan.
- The two sides agreed to ensure the mutual viability of the two States emerging after secession of the South.
- The Republic of South Sudan and the Government of Sudan agree to deal with the potential adverse effects on their respective economies as a result of secession. To that end, the parties commit to take such actions as are required to facilitate the achievement of the agreed principle of mutual viability.
- The two sides recognize that the Government of Sudan signed exploration and production sharing agreements (EPSAs) with foreign and local third parties constituting the contractors.
- The two sides undertake to maintain full mutual transparency of all information relevant to the petroleum activities within the State of one party that may be of relevance for or affect the petroleum activities within the State of the other party.
- The underlying basis for any agreement is that each State shall have ownership, sovereign rights and jurisdiction over the petroleum resources in or underneath the territory of that State and sovereign rights and jurisdiction over the petroleum facilities lying within the territory of that State (territorial principle).

Access, tariffs and other terms

- The Republic of South Sudan shall continue to have access to processing and transportation facilities and handling at marine terminals in Sudan, of its crude oil currently produced from the existing EPSAs in its territory.

- Access for crude oil from fields not currently in production shall be agreed upon by a separate commercial agreement when quantities become ready and subject to availability of capacity.
- The transportation tariff for Republic of South Sudan crude entitlements transported in transportation systems (inclusive of the marine terminal) in the Republic of Sudan is determined at USD 21.8/oil barrel (bbl) for all quantities under existing EPSAs signed by the Government of the Republic of Sudan before secession.
- Failure by the Republic of South Sudan to effect payment in cash for transported quantities entitles the Government of Sudan to effect payment in kind using the relevant Crude Oil Pipeline Agreement (COPA) mechanisms.

Uniqueness of Sudan's facilities

- The Government of Sudan's transportation facilities are unique, being owned by the host country. Other transportation systems are owned by the transiting countries and their partners.
- Government of Sudan facilities are ready for use from day one.
- Government of Sudan facilities are safe and secure.

Comparable transportation fees

Pipeline	*Length*	*Transportation fee*
Chad-Cameroon	900 km	USD 10/bbl
Azerbaijan-Georgia	828 km	USD 13.4/bbl
WNPOC (Sudan)	1,500+176 km	USD 9/bbl

Operational procedures and free cross-border movement of personnel, goods and services

- The two sides, with the oil companies involved, are to agree on operational procedures ensuring the continued efficient and secure operations of cross-border blocks.

Security of supply of crude oil to refineries in the Republic of Sudan

- The Government of Sudan shall be entitled to inland delivery of crude to refineries within the Republic of Sudan upon mutual agreement as to terms and conditions.
- The valuation of the crude shall be the FOB price of the blend less all costs incurred which costs shall include the processing fees, tariffs, terminal fees, transit fees, quality differentials and any applicable deductions. Based on the

above pricing (net back price), the Government of Sudan will take delivery of the crude at the inlet delivery point to the relevant transportation facilities.

Security of supply of refined products to the Republic of South Sudan

- The Republic of South Sudan will be given access to purchase petroleum products for its domestic consumption from refineries within the Republic of Sudan, at the prevailing market prices and subject to availability.
- The refined product will be supplied to the Republic of South Sudan ex-refinery, through an agent of the Republic of South Sudan upon agreement on delivery and handling with relevant parties.
- The Government of Sudan shall guarantee the security of the products to pass to the border of South Sudan without hindrance, taxation, state fees, road fees or any other applicable imposts.

Transit fees

- The Republic of South Sudan, for evacuating its oil through the territory of the Republic of Sudan, will be charged a transit fee of USD 6/bbl for all Republic of South Sudan entitlements of crude transported over the territories of the Republic of Sudan.

Comparable transit fees

Pipeline	*Length*	*Transit fee*
Kazakhstan-Russia	1,503 km	USD 5.14/bbl
Azerbaijan-Russia	1,400 km	USD 2.60/bbl
Ukraine (Oddesu)	674 km	USD 2.60/bbl
Caspian Pipeline	1,580 km	USD 4.40/bbl

Country	*Transit tariff, US$/mt*	*Distance, km*	*US$/100 tkm*
Belarus (Russia-Ukraine), *Druzhba*, 520/720 mm	1.14	245	0.47
Belarus (Russia-Poland), *Druzhba*, 630/820 mm	2.60	521	0.50
Ukraine (Russia-Odessa), *Pridneprovskie company*, 720 mm	6.30	1 097	0.57
Ukraine (Belarus-Slovakia), *Druzhba*, 530/720 mm	5.60	634	0.88
Ukraine (Odessa-Brody), 1020 mm	12.70	674	1.88
Ukraine (Russia-Yuzhniy), *Collide ltd.*, 720 mm	12.00	1 112	1.07
Russia (Caspian Sea-Black Sea) *Makhachkala-Novorossiysk*, 720 mm	7.06	774	0.91
Russia (Azerbaijan-Black Sea), *Baku-Novorossiysk*, 720 mm	15.67	1 411	1.11
Russia (Kazakhstan, Turkmenistan oil), *Transneft*, 720-1200 mm			0.73
Caspian Pipeline Consortium (Kazakhstan-Russia), 1016 mm	30.83	1 580	1.95

Source: "From Wellhead to Market: Oil Pipeline Tariffs and Tariff Methodologies in Selected Energy Charter Member Countries", Oil, Gas and Energy Law 2, p. 63 (2007).

Central processing facilities fees

- The Republic of South Sudan, for processing its entitlements of crude oil in central processing facilities (CPF) within the territory of the Republic of Sudan, will be charged a processing fee of USD 4.4/bbl.

Central processing facilities estimated process cost

CPF	*CPF design capacity BOPD*	*Year of Commissioning*	*CAPEX KUSD*	*OPEX per year KUSD*	*Assets fixed cost (depreciation) KUSD*	*Total OPEX per year KUSD*	*Yearly production (Kbbl)*	*Process cost ($/bbl)*
Heglig CPF	300 000	1999	442 327	14 155	110 582	124 737	40 541	3.08
Aljabalain CPF	300 000	2006	317 944	20 385	79 486	99 871	93 767	1.12

Abbreviations: BOPD, barrels of oil per day; CAPEX, capital expenditure; KUSD, thousand USD; Kbbl, Kilo-barrel.

Oil arrears and claims

- Each party undertakes to relieve the other of all claims for arrears accumulated under and between the two sides before secession.
- The Government of Sudan agrees to waiver transit fees and crude oil services costs for crude oil transported by the Republic of South Sudan through Sudan in the period from 7 July 2011 until the "shutdown".
- The Republic of South Sudan shall not bring any other claims related to the prior confiscation and diversion of Republic of South Sudan entitlement, including for Republic of South Sudan entitlements previously diverted to Sudan's refineries maintained in domestic reserves or otherwise sold.
- Proceeds from sales of oil pertaining to the vessels *Ratna Shradha* and *Etc Isis* are to be settled amicably among the two sides.
- Items not considered relevant to this include claims brought by individuals or legal personas.
- Pursuant to Security Council resolution 2046 (2012), which states, "Calling for an impartial fact finding effort to assess the losses and economic and humanitarian damage, including to oil facilities and other key infrastructure in and around Heglig", the following is to be observed:
  - The Republic of Sudan has promptly conducted an interdepartmental assessment and has prepared a detailed assessment report to assess losses and damages resultant from the latest incursion by the South Sudan forces into Heglig.
  - The Security Council shall expedite the formation of a committee under resolution 2046 (2012). The report mentioned under the item above will form the basis of any investigation to be carried out in recognition that the situation on the ground in Heglig has changed since the attack due to Sudan's efforts to resume operations.
  - Upon the formation of the committee, the Government of Sudan undertakes to extend all required assistance to the committee in performance of its duties in a sound manner

Non-oil arrears

- Arrears pertaining to non-oil matters will be discussed, ascertained and settled within the context of the Arrears group and are not covered by this agreement.

Payments under agreement

- All payments under this agreement shall be made through direct unconditional financial transfers from the paying Government to the payee Government for all future transactions between the two parties.
- The parties may agree to effect payment in kind based on mutual written agreement.

Term of agreement

- The terms and conditions of any agreement reached are applicable for a period of three and one-half years from signature and are to be revised six months prior to the expiry of the period to match prices and other prevailing circumstances.

Summary of fees

Transportation tariff (including Marine Terminal)	*Transit fee*	*CPF fee*	*Total*
USD 21.8/bbl	USD 6/bbl	USD 4.4/bbl	USD 32.2/bbl

Sudapet's participating interest

- Pursuant to the Zero-Option Agreement in the debt and assets matter, participating interest in EPSAs is a domestic financial asset allocated to the Government of Sudan which goes with domestic debt borne by the Government of Sudan. Sudapet is one of the contractor parties to the EPSAs. To that end:
  - The Republic of South Sudan should revoke the presidential order dated 8 November 2011, in which Sudapet's participating interests were confiscated and awarded to Nilepet;
  - If the Republic of South Sudan desires to acquire Sudapet's participating interests in South Sudan, then the prevailing market value is to be paid to Sudapet after satisfying the requirements of existing agreements (JOA etc ...).

Joint credit outreach strategy and United States sanctions

- The Republic of South Sudan and the Government of Sudan have agreed to engage in a joint credit outreach strategy aimed at garnering debt relief for the Republic of Sudan.
- The two parties and the African Union shall work together to secure transitional financial arrangements of USD 3.5 billion to be frontloaded to cover one third of the calculated financial gap of USD 10.47 billion. Additionally all parties shall work together to seek development finance for the Republic of South Sudan.
- The Republic of South Sudan shall exert efforts to lift United States sanctions imposed on the Republic of Sudan.